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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,614	11/04/2003	Daniel James Kinne	9422L	6503

27752 7590 06/07/2005

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EXAMINER

CHAN, SING P

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/700,614

Applicant(s)

KINNE ET AL.

Examiner

Sing P. Chan

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 8 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05/10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of group I, claims 1-15 in the reply filed on April 25, 2005 is acknowledged. The traversal is on the ground(s) that the apparatus cannot be used to practice a materially different process. This is not found persuasive because the claims do not recite any structure for the brushes and therefore include any structure, which is capable of being used for practice of a materially different process such as smoothing polymeric coating.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9, 11, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Buske (U.S. 3,907,628).

Regarding claim 1, Buske discloses an apparatus for applying a sheet material. The apparatus includes two convex presser edges, (20 and 22) two protuberances, (24 and 26) and two brushing strips, which brush away any loose particles and also provide additional pressing means, which are all burnishes. (Col 3, lines 22-36, Col 5, lines 57-60, and Figure 1-4)

Regarding claims 2, 11, and 12, the burnishes as disclosed by Buske are flat.  
(Figures 1-4)

Regarding claim 3, the burnishes as disclosed by Buske includes an extrapolated vertex and offset from the burnishes. (Figures 1-4)

Regarding claim 4, the surfaces of the burnishes as disclosed by Buske includes angle of at least  $270^{\circ}$ .

Regarding claim 5, the brushing strips as disclosed by Buske are of mutually different materials than the presser edges and protuberances. (Col 3, line 62 to Col 4, line 11)

Regarding claim 6, Buske discloses the burnishes subtend an angle of less than  $180^{\circ}$  opposite the surface of the burnishes and a guide member (12), which allow sheet material to be inserted into a cavity (14) and function as a holder.

Regarding claim 7, Buske discloses the apparatus includes a cavity (14), which is disposed above one of the burnish when disposed against a vertical substrate. (Figures 1-4)

Regarding claim 9, Buske discloses the apparatus is form of any suitable materials, which is considered to include compliant material. (Col 3, line 62 to Col 4, line 11)

Regarding claims 13 and 14, Buske discloses an apparatus for applying a sheet material. The apparatus includes two convex presser edges, (20 and 22) two protuberances, (24 and 26) and two brushing strips (54), which brush away any loose particles and also provide additional pressing means, which are all burnishes, which are

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outwardly facing and noncoplanar relative to each other. (Col 3, lines 22-36, Col 5, lines 57-60, and Figure 1-4)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buske (U.S. 3,907,628) as applied to claim 9 above, and further in view of Takahashi (U.S. 4,026,648).

Buske as disclosed above does not disclose at least on burnish comprises felt. Buske does disclose a brushing strip for brushing loose particles and considered to be capable of also function as an additional burnish. And using felt to brush or clean loose particles from a surface is well known and conventional as shown for example by Takahashi. Takahashi discloses a cleaning means to remove particles from a surface includes paper, a pad with a sponge, felt, brush, or a cleaning blade such as rubber or plastic, (Col 5, lines 20-51) which are all equivalents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least on burnish comprising felt or any other material as disclosed by Takahashi in the apparatus of Buske as to provide any means, which are equivalent to press and burnish the sheet material onto a surface.

***Allowable Subject Matter***

6. Claims 8 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The claims recite an apparatus for applying sheet material. The apparatus includes two burnishes (claim 1) or two non-rotatable burnishes (claim 13), with outwardly facing surface for burnishing the sheet material, with the burnishes being disposed with the first surfaces subtend an angle of at least 180° (claim 1) or being disposed in convex noncoplanar relationship relative to each other (claim 13), the two burnishes comprise of different materials, (claim 14), a control bar for attachment to the sheet material with control bar being movable between an deployed position and a retractable position, whereby the control bar is juxtaposable with a corner formed by a flat substrate when extended to the deployed position (claim 8), the two burnishes are arcuate and at least one arcuate burnish having a first surface, which is convexly shaped, with a major axis, and having a hinge generally parallel to major axis with each burnishes being joined to and articulable about said hinge relative to the other (claim 15). Buske discloses an apparatus for applying a sheet material. The apparatus includes two convex presser edges, (20 and 22) two protuberances, (24 and 26) and two brushing strips, which brush away any loose particles and also provide additional pressing means, which are all burnishes. (Col 3, lines 22-36, Col 5, lines 57-60, and Figure 1-4) However, Buske does not discloses the apparatus includes a control bar for

attachment to the sheet material with control bar being movable between an deployed position and a retractable position, whereby the control bar is juxtaposable with a corner formed by a flat substrate when extended to the deployed position (claim 8), the two burnishes are arcuate and at least one arcuate burnish having a first surface, which is convexly shaped, with a major axis, and having a hinge generally parallel to major axis with each burnishes being joined to and articulable about said hinge relative to the other (claim 15), with the burnishes comprise of different material (claim 14). A search of the prior art of record did not disclose reference or references in combination with the recited features.

### ***Response to Arguments***

7. Applicant's arguments filed April 25, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument of presser edges (20 and 22) of Buske are not outwardly facing. The examiner disagrees with the argument, as can be seen from the figure 4, the edge members are facing outward.

In response to applicant's argument of two burnishes 24 and 26 of Buske are coplanar and do not subtend an included angle of at least 180°. The examiner disagrees with the argument, the two burnishes 24 and 26 are coplanar, which form an angle either 0° or 180°, since both angles are coplanar.

In response to applicant's argument of the combination of Buske and Takahashi fails to teach the applicator of claim 1. Buske does teach the invention as recited in

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claim 1 as argued above and the combination Buske and Takahashi discloses the instant invention.

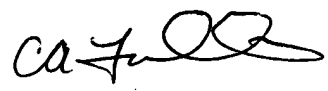
Applicant's arguments with respect to claims 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
spc

  
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Au 1734